

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ACTELION PHARMACEUTICALS US,
INC., ACTELION PHARMACEUTICALS
LTD and NIPPON SHINYAKU CO., LTD.,

Plaintiffs,

v.

ALEMBIC PHARMACEUTICALS LIMITED
and ALEMBIC PHARMACEUTICALS, INC.,

Defendants.

C.A. No. 22-1450-GBW
(consolidated)

C.A. No. 23-389-GBW

CONSENT JUDGMENT AND ORDER OF PERMANENT INJUNCTION

Plaintiffs Actelion Pharmaceuticals US, Inc. and Actelion Pharmaceuticals Ltd (together, “Actelion”) and Nippon Shinyaku Co., Ltd. (“Nippon Shinyaku”) (collectively, “Plaintiffs”) and Defendants Cipla Limited (“Cipla Ltd.”) and Cipla USA, Inc. (“Cipla Inc.”) (collectively, “Defendants” or “Cipla”) (collectively, the “Parties”), by their respective undersigned attorneys, hereby stipulate and consent to entry of judgment and injunction in this action as follows:

IT IS, this 19th day of August, 2024

HEREBY ORDERED, ADJUDGED AND DECREED that:

1. For purposes of this action only, this Court has jurisdiction over the subject matter of the above action and has personal jurisdiction over the Parties.
2. As used in this Consent Judgment and Order of Permanent Injunction, (i) the term “Patents-in-Suit” means U.S. Patent Nos. 8,791,122 and 9,284,280 respectively, which for purposes of this action Cipla agrees are both valid and enforceable, (ii) the term “Cipla’s ANDA Product” means the product described in Abbreviated New Drug Application (“ANDA”) No. 216607 (“Cipla’s ANDA”), namely selexipag for injection 1.8 mg/vial as a generic version of

Uptravi® IV as existing on the date of entry of this Consent Judgment, and as amended or supplemented, (iii) the term “Affiliate” shall mean any entity controlling, controlled by, or under common control with a Party, but only as long as such control continues, where “control” means: (1) the ownership of at least fifty percent (50%) of the equity or beneficial interest of such entity, or the right to vote for or appoint a majority of the board of directors or other governing body of such entity; or (2) the power to directly or indirectly direct or cause the direction of the management and policies of such entity by any means whatsoever.

3. Unless otherwise authorized by Plaintiffs, Cipla, including any of its successors and assigns, is enjoined from making, using, selling or offering to sell in, or importing into, the United States Cipla’s ANDA Product, on its own part or through any Affiliate, officer, agent, servant, employee or attorney, or through any person in concert or coordination with Cipla or its Affiliates, until and after the expiration of the Patents-in-Suit, including any patent term extensions and/or patent term adjustments and during the period of any associated exclusivity.

4. The Parties agree that jurisdiction and venue for an action to enforce performance under this Consent Judgment and Order of Permanent Injunction, including for a preliminary injunction against the breaching conduct, exists in this District Court, and the Parties hereby waive any and all defenses based on personal jurisdiction and venue.

5. The Parties waive all right to appeal or otherwise move for relief from this Judgment and Order.

6. The Complaint and all remaining claims, counterclaims, or affirmative defenses in the above action are dismissed without prejudice and without costs, disbursements, or attorney fees to any party.

7. This Court retains jurisdiction to enforce or supervise performance under this Consent Judgment and Order of Permanent Injunction.

IT IS SO STIPULATED:

By:

/s/ Steven J. Balick

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By:

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*Attorneys for Defendants Cipla
Limited and Cipla USA, Inc.*

SO ORDERED:

This 19th day of August, 2024



HONORABLE GREGORY B. WILLIAMS
UNITED STATES DISTRICT JUDGE